

04 MAY 1988

MEMORANDUM

SUBJECT: Recommendation for Approval of Stipulation and Order in  
United States v. BASF Wyandotte Corporation

FROM: Valdas V. Adamkus  
Regional Administrator

TO: Thomas L. Adams, Jr.  
Assistant Administrator for  
Enforcement and Compliance Monitoring (LE-133)

This memorandum is to request that you review and approve the attached Stipulation and Order to be entered in the case of United States of America v. BASF Wyandotte Corporation (BASF), Case No. 88-73699. Upon your approval, we are requesting that the Stipulation and Order be forwarded to the Department of Justice for their signature and filing.

U.S. EPA filed this action against BASF on September 30, 1980, alleging that BASF violated Section 7003 of the Resource Conservation and Recovery Act, 42 U.S.C. Section 6973, and Section 407 of the Refuse Act, 33 U.S.C. Section 407. In settlement of this action, on July 18, 1984, U.S. EPA and BASF entered into a Consent Decree which provided, among other things, that BASF install monitor wells in at least nine locations on BASF's Riverview, Michigan property. While BASF did install the required monitor wells, BASF later removed some of the required monitor wells, in violation of the terms of the Consent Decree.

After learning of BASF's removal of monitor wells required by the terms of the Consent Decree, U.S. EPA filed a Contempt Motion against BASF on July 21, 1987. This Contempt Motion sought penalties against BASF and an Order from the court requiring BASF to reinstall the monitor wells required by the terms of the Consent Decree.

BASF has now reinstalled the monitor wells which they removed



from the Riverview site. In addition, BASF has agreed to pay a penalty of \$40,000 for violations of the terms of the Consent Decree. Of this \$40,000 penalty, \$10,000 will be paid to the State of Michigan and \$30,000 will be paid to U.S. EPA.

We recommend that you approve this Stipulation and Order on behalf of Region V. Should you have any questions or comments concerning this request, please contact Connie Puchalski, Assistant Regional Counsel, at the above address or by telephone at (312) 886-6620.

/s/ Original signed by  
VALDAS V. ADAMKUS

Valdas V. Adamkus

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MEMORANDUM

SUBJECT: Recommendation for Approval of Stipulation and Order in  
United States v. BASF Wyandotte Corporation

FROM: Robert B. Schaefer and Basil G. Constantelos  
Regional Counsel Director, Waste Management  
Division

TO: Valdas V. Adamkus  
Regional Administrator

Attached for your review and approval is a Stipulation and Order to be entered in the case of United States of America v. BASF Wyandotte Corporation (BASF), Case No. 88-73699. This Stipulation and Order resolves a Motion for Contempt that U.S. EPA filed against BASF on July 21, 1987.

U.S. EPA originally filed this action against BASF on September 30, 1984, alleging that BASF violated Section 7003 of the Resource Conservation and Recovery Act, 42 U.S.C. Section 6973 and Section 407 of the Refuse Act, 33 U.S.C. Section 407. In settlement of the lawsuit, on July 18, 1984, U.S. EPA and BASF entered into a Consent Decree which provided, among other things, that BASF install monitor wells in at least nine locations on BASF's Riverview, Michigan property. After installing the required monitor wells, BASF removed several of the monitor wells, in violation of the Consent Decree and without the knowledge and prior approval of U.S. EPA.

After learning of BASF's removal of the monitor wells required by the Consent Decree, U.S. EPA filed a Contempt Motion against BASF, seeking penalties and an Order by the court requiring BASF to reinstall the monitor wells required by the terms of the Consent Decree.

BASF has now reinstalled the missing monitor wells. In addition,

BASF has agreed to pay a penalty of \$40,000 for violation of the terms of the Consent Decree. Of this \$40,000 penalty, \$10,000 will be paid to the State of Michigan and \$30,000 will be paid to U.S. EPA.

We recommend that you approve this Stipulation and Order on behalf of Region V.

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
FRANK J. KELLEY, Attorney General	)	
for the State of Michigan, FRANK	)	Civil No. 80-73699
J. KELLEY, <u>ex rel.</u> MICHIGAN NATURAL	)	
RESOURCES COMMISSION, MICHIGAN	)	
WATER RESOURCES COMMISSION and	)	HONORABLE BARBARA HACKETT
RONALD SKOOG, Director of the	)	
Michigan Department of Natural	)	
Resources,	)	
	)	
Intervenor-Plaintiffs,	)	
	)	
v.	)	
	)	
BASF WYANDOTTE CORPORATION,	)	
	)	
Defendant.	)	

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STIPULATION AND ORDER

In light of plaintiffs' joint motion to amend the Consent Decree entered in July 1984, the parties stipulate and the Court orders that:

1. Monitor Wells Nos. 4S, 8, and 10, which were reinstalled by BASF in September 1987, shall be treated as if they were installed in compliance with Section V.B.1 of the 1984 Consent Decree and as if they were in place as of July 1, 1985. Any further action regarding Wells Nos. 4S, 8, and 10 shall be in accordance with the 1984 Consent Decree;

2. Within twenty days of entry of the stipulation and order, BASF shall pay in total the sum of \$40,000, apportioned as follows:

\$30,000 to the United States; and

\$10,000 to the State of Michigan;

These sums shall be paid by certified checks, the first one made payable to the Treasury of the United States and mailed to U.S. EPA Region V, and the second one made payable to the Attorney General of the State of Michigan and mailed to the Environmental Protection Division, Department of the Attorney General;

3. BASF, including its parents and subsidiaries, will not use any of these sums as deductions or adjustments against its federal, state, local, or other tax liabilities;

4. BASF does not admit any violation or non-conformance with the terms of the 1984 Consent Decree;


5. The stipulation and order resolves the U.S. Motion for Civil Contempt, and that motion is dismissed with prejudice and without costs; and

6. Nothing in the stipulation and order affects any matter at the Riverview site beyond Monitor Wells Nos. 4S, 8, and 10, except that the United States and the State of Michigan agree, as of the date the parties entered into this stipulation:

- (i) that all monitor wells that should be installed at the Riverview Site have been installed at the Site,
- (ii) that those wells have been installed properly, and
- (iii) that, accordingly, all the parties to this stipulation intend that it will resolve all alleged violations of the Consent Decree by BASF with respect to installation of the monitor wells called for in the Consent Decree.

The parties stipulate to the form and content of this document.

For BASF Wyandotte (now known as BASF Corporation-Chemicals):

  
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Connie Puchalski  
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United States Environmental  
Protection Agency  
Region V [5CS TUB 3]  
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SO ORDERED: \_\_\_\_\_  
BARBARA HACKETT  
United States District Judge

(Date: \_\_\_\_\_ )